

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

HECTOR PEÑA DE LEON

XXX-XX-7045

DEBTOR (S)

CASE NO. 17-06462-BKT

CHAPTER 13

CARMEN RAMOS ATILES
MOVANT

HECTOR PEÑA DE LEON
DEBTOR

JOSE R. CARRION
TRUSTEE

MOTION TO DISMISS PURSUANT TO SECTION 11 U.S.C. 1307(e)

TO THE HONORABLE COURT:

NOW COMES MOVANT, Carmen Ramos Atilas, ("Ramos"), through the undersigned counsel, and very respectfully alleges and requests:

1. Ramos is a secured creditor in the above captioned case. The debtor has failed to comply with 11 U.S.C. § 1308. Consequently, Ramos requests that an order to dismiss the Chapter 13 petition pursuant to section 1307(e) of the Bankruptcy Code be entered.

2. In its pertinent part, Section 1307 states that:

“(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.”

3. On December 7, 2017, the Trustee, Jose R. Carrión, filed a “Notice of Closing 341 Creditors’ Meeting After Failure to Comply with 11 U.S.C. § 1308” (Docket #18). On his motion, the Trustee informed that the 341 Creditors meeting was held on November 14, 2017, on that date the Trustee decided to hold meeting open for 21 days pending relevant inquiry made to the debtor for remittance of evidence of filing all applicable tax return for all taxable periods ending during the 4 year period ending on the date of the filing of the petition according to 11 U.S.C. § 1308(b)(1). The Trustee also informed that the debtor has not provided evidence of filing the applicable tax returns as requested, that constitutes a failure to comply with 11 U.S.C. § 1308. Finally, the Trustee closed the section 341 meeting.

4. The debtor’s failure to submit the evidence of filing the applicable tax returns as requested, before the closing of the 341 meeting, is sufficient cause to dismiss the Chapter 13 petition, this course of action represent the best interest of the creditors and the estate.

5. In view of the foregoing, Ramos respectfully requests that an order dismissing the Chapter 13 petition pursuant to section 1307(e) of the Bankruptcy Code be entered.

NOTICE TO ALL PARTIES IN INTEREST

Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the dismissal sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise. If no response is filed within the prescribed period of time the Court may enter an order granting the relief herein requested.

WHEREFORE, Ramos respectfully requests that an order be entered granting the dismissal of the Chapter 13 petition due to the debtor's failure to submit the evidence of filing the applicable tax returns pursuant to section 1307(e) of the Bankruptcy Code, granting costs, expenses and attorney's fees to Ramos.

RESPECTFULLY SUBMITTED

I HEREBY CERTIFY that on this date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which send notification of such filing to all participants of the CM/ECF system including the Chapter 13 Trustee, Jose R. Carrión, Esq.; and Debtor's counsel, Roberto Figueroa Carrasquillo, Esq. I also certify a copy of this motion has been served by regular U.S. Mail on this same date to the debtor and his attorney and all creditors and parties in interest to their respective addresses of

record as they appear in the master address list to the record, if any are not registered CM/ECF system participants.

In San Juan, Puerto Rico this, December 26, 2017.

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